

SHB 2086 - H AMD 243

By Representative Pearson

FAILED 03/11/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that Hood Canal
4 is a precious aquatic resource of our state. The legislature finds
5 that Hood Canal is a rich source of recreation, fishing, aquaculture,
6 and aesthetic enjoyment for the citizens of this state. The
7 legislature also finds that Hood Canal has great cultural significance
8 for the tribes in the Hood Canal area. The legislature therefore
9 recognizes Hood Canal's substantial environmental, cultural, economic,
10 recreational, and aesthetic importance to Washington.

11 (2) The legislature finds that Hood Canal is a marine water of the
12 state at significant risk. The legislature finds that Hood Canal has
13 a "dead zone" related to low-dissolved oxygen concentrations, a
14 condition that has recurred for many years. The legislature also finds
15 this problem and various contributors to the problem were documented in
16 the May 2004 *Preliminary Assessment and Corrective Action Plan*
17 published by the state Puget Sound action team and the Hood Canal
18 coordinating council. The legislature recognizes this report
19 identifies on-site sewage systems as a prime contributor of nitrogen,
20 a nutrient linked to the low-dissolved oxygen concentrations in Hood
21 Canal.

22 (3) The legislature recognizes the state's growth management act
23 specifies in RCW 36.70A.110(4) that generally it is not appropriate to
24 extend or expand urban governmental services, such as sewer systems,
25 into rural areas. The legislature also recognizes that RCW
26 36.70A.110(4) contains an exception to this general rule in those
27 limited circumstances shown to be necessary to protect basic public
28 health and safety and the environment when the facilities are
29 financially supportable at rural densities and do not permit urban
30 development.

1 (4) The legislature recognizes the Washington supreme court in
2 *Thurston County v. The Cooper Point Association*, 148 Wn.2d 1 (2002),
3 approved a restrictive interpretation of the term "necessary" in the
4 RCW 36.70A.110(4) exception to accomplish the legislature's intent in
5 enacting these and other growth management act provisions. The court
6 in the *Cooper Point* case also noted the existing sewage treatment plant
7 and septic systems at issue in that case were not experiencing waste
8 discharge problems that threaten public health and the environment.
9 The legislature recognizes and affirms the RCW 36.70A.110(4) exception
10 specifying that extension or expansion of urban governmental services,
11 such as sewer systems, must be shown necessary to protect public health
12 and the environment.

13 (5) The legislature finds that Hood Canal's low-dissolved oxygen
14 concentrations and identification of failing septic systems as a prime
15 contributor to the problem satisfy the necessity requirement in the RCW
16 36.70A.110(4) exception. The legislature intends to authorize limited
17 extension or expansion of sewer systems in the Hood Canal area to
18 address the problems associated with failing septic systems in the Hood
19 Canal area.

20 (6) The legislature also intends to provide for an assessment of
21 the efficacy of nitrogen reduction capabilities in existing and
22 alternative on-site sewage treatment systems and an inventory of
23 existing on-site sewage treatment systems in the Hood Canal vicinity to
24 support development of sewage treatment solutions for this area.

25 **Sec. 2.** RCW 36.70A.110 and 2004 c 206 s 1 are each amended to read
26 as follows:

27 (1) Each county that is required or chooses to plan under RCW
28 36.70A.040 shall designate an urban growth area or areas within which
29 urban growth shall be encouraged and outside of which growth can occur
30 only if it is not urban in nature. Each city that is located in such
31 a county shall be included within an urban growth area. An urban
32 growth area may include more than a single city. An urban growth area
33 may include territory that is located outside of a city only if such
34 territory already is characterized by urban growth whether or not the
35 urban growth area includes a city, or is adjacent to territory already
36 characterized by urban growth, or is a designated new fully contained
37 community as defined by RCW 36.70A.350.

1 (2) Based upon the growth management population projection made for
2 the county by the office of financial management, the county and each
3 city within the county shall include areas and densities sufficient to
4 permit the urban growth that is projected to occur in the county or
5 city for the succeeding twenty-year period, except for those urban
6 growth areas contained totally within a national historical reserve.

7 Each urban growth area shall permit urban densities and shall
8 include greenbelt and open space areas. In the case of urban growth
9 areas contained totally within a national historical reserve, the city
10 may restrict densities, intensities, and forms of urban growth as
11 determined to be necessary and appropriate to protect the physical,
12 cultural, or historic integrity of the reserve. An urban growth area
13 determination may include a reasonable land market supply factor and
14 shall permit a range of urban densities and uses. In determining this
15 market factor, cities and counties may consider local circumstances.
16 Cities and counties have discretion in their comprehensive plans to
17 make many choices about accommodating growth.

18 Within one year of July 1, 1990, each county that as of June 1,
19 1991, was required or chose to plan under RCW 36.70A.040, shall begin
20 consulting with each city located within its boundaries and each city
21 shall propose the location of an urban growth area. Within sixty days
22 of the date the county legislative authority of a county adopts its
23 resolution of intention or of certification by the office of financial
24 management, all other counties that are required or choose to plan
25 under RCW 36.70A.040 shall begin this consultation with each city
26 located within its boundaries. The county shall attempt to reach
27 agreement with each city on the location of an urban growth area within
28 which the city is located. If such an agreement is not reached with
29 each city located within the urban growth area, the county shall
30 justify in writing why it so designated the area an urban growth area.
31 A city may object formally with the department over the designation of
32 the urban growth area within which it is located. Where appropriate,
33 the department shall attempt to resolve the conflicts, including the
34 use of mediation services.

35 (3) Urban growth should be located first in areas already
36 characterized by urban growth that have adequate existing public
37 facility and service capacities to serve such development, second in
38 areas already characterized by urban growth that will be served

1 adequately by a combination of both existing public facilities and
2 services and any additional needed public facilities and services that
3 are provided by either public or private sources, and third in the
4 remaining portions of the urban growth areas. Urban growth may also be
5 located in designated new fully contained communities as defined by RCW
6 36.70A.350.

7 (4) In general, cities are the units of local government most
8 appropriate to provide urban governmental services. In general, it is
9 not appropriate that urban governmental services be extended to or
10 expanded in rural areas except in those limited circumstances shown to
11 be necessary to protect basic public health and safety and the
12 environment and when such services are financially supportable at rural
13 densities and do not permit urban development. Extensions or
14 expansions of sewer systems consistent with the requirements of section
15 3 of this act satisfy the requirements of this section.

16 (5) On or before October 1, 1993, each county that was initially
17 required to plan under RCW 36.70A.040(1) shall adopt development
18 regulations designating interim urban growth areas under this chapter.
19 Within three years and three months of the date the county legislative
20 authority of a county adopts its resolution of intention or of
21 certification by the office of financial management, all other counties
22 that are required or choose to plan under RCW 36.70A.040 shall adopt
23 development regulations designating interim urban growth areas under
24 this chapter. Adoption of the interim urban growth areas may only
25 occur after public notice; public hearing; and compliance with the
26 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.
27 Such action may be appealed to the appropriate growth management
28 hearings board under RCW 36.70A.280. Final urban growth areas shall be
29 adopted at the time of comprehensive plan adoption under this chapter.

30 (6) Each county shall include designations of urban growth areas in
31 its comprehensive plan.

32 (7) An urban growth area designated in accordance with this section
33 may include within its boundaries urban service areas or potential
34 annexation areas designated for specific cities or towns within the
35 county.

36 NEW SECTION. **Sec. 3.** Sewer systems may be extended to or expanded

1 in rural areas within aquatic rehabilitation zone one according to the
2 requirements of this section.

3 (1) Municipal sewer systems and community sewage collection and
4 treatment facilities may be constructed in or extended to areas in
5 which:

- 6 (a) Clusters of high-density development are present;
- 7 (b) Water quality problems associated with discharge of nutrients
8 from on-site sewage treatment systems have been documented; and
- 9 (c) The treatment efficiency of existing on-site sewage treatment
10 systems is poor.

11 (2) Systems and facilities constructed in or extended into rural
12 areas shall include nitrogen removal treatment capability when
13 practicable.

14 (3) Consistent with the requirements of RCW 36.70A.110(4), any
15 system or facility constructed or expanded to serve residences in rural
16 areas of aquatic rehabilitation zone one shall be:

- 17 (a) Financially supportable at rural densities; and
- 18 (b) Conditioned to prohibit service of urban development.

19 NEW SECTION. **Sec. 4.** (1) The Puget Sound action team shall assess
20 the effectiveness of nitrogen treatment provided by currently approved
21 and alternative on-site sewage treatment technologies. The Puget Sound
22 action team may consult with other federal, state, tribal, and local
23 agencies in conducting this assessment. The Puget Sound action team
24 shall submit a report documenting the findings of this assessment to
25 the appropriate committees of the legislature by December 1, 2005.

26 (2) The Puget Sound action team, in consultation with local and
27 state health agencies, shall conduct an inventory of on-site sewage
28 systems operating in the Hood Canal watershed. The Puget Sound action
29 team shall submit the inventory to the appropriate committees of the
30 legislature by December 1, 2006.

31 NEW SECTION. **Sec. 5.** Sections 3 and 4 of this act are each added
32 to chapter 90.-- RCW (the new chapter created in Substitute House Bill
33 No. 2081).

34 NEW SECTION. **Sec. 6.** This act is necessary for the immediate

1 preservation of the public peace, health, or safety, or support of the
2 state government and its existing public institutions, and takes effect
3 immediately."

4 Correct the title.

EFFECT: Adds the substantive and legislative intent provisions related to extension or expansion of sewer systems in rural areas that were included in the original bill (retains the deadline change made in the substitute for the on-site sewage system inventory).

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